

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

THOMAS STEWART	§	
v.	§	CIVIL ACTION NO. 6:15cv64
CORRECTIONS CORPORATION OF AMERICA, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Thomas Stewart, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Stewart has been sanctioned multiple times by the Fifth Circuit Court of Appeals. One of the sanctions imposed upon him is a bar from filing lawsuits or appeals without first obtaining permission from a judge of the forum court. He filed a motion for permission to file a civil rights action in district court, and this Court granted permission.

Stewart filed a motion for leave to proceed *in forma pauperis* and leave was granted. The Court assessed an initial partial filing fee of \$33.98, pursuant to 28 U.S.C. §1915(b). When Stewart did not comply, the magistrate judge issued a report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the court.

Stewart filed objections to the report claiming that law library personnel are refusing to allow him to sign authorization forms. Despite this alleged refusal, Stewart furnished an inmate trust account data sheet, the second such sheet he was able to obtain. This second data sheet showed that

although Stewart claimed he was “almost penniless,” the highest balance in his trust account exceeded \$200.00 in May of 2015 and exceeded \$100.00 in June and July of 2015. He received a \$50.00 deposit in July, and his current balance as of the date of the data sheet was \$45.67, plainly enough to satisfy the initial partial filing fee. He did not submit any grievances concerning the alleged acts by law library personnel. The Court routinely receives cases from the Bradshaw State Jail in which assessed filing fees are paid. Stewart has failed to show good cause for his failure to comply with the Court’s order for the statutory initial partial filing fee. His objections are without merit.

Conclusion


The Court has conducted a careful *de novo* review of those portions of the magistrate judge’s proposed findings and recommendations to which the Plaintiff objected. *See* 28 U.S.C. §636(b)(1) (district judge shall “make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”) Upon such *de novo* review, the Court has determined that the report of the magistrate judge is correct and the Plaintiff’s objections are without merit. It is accordingly

ORDERED that the Plaintiff’s objections are overruled and the report of the magistrate judge (docket no. 15) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Should Stewart wish to re-file this case or to file any new litigation or appeal, he must again seek and receive permission from a judge of the forum court, as set out in the sanctions imposed by the Fifth Circuit Court of Appeals. *See Stewart v. Mesquite, City of, et al.*, slip op. no. 96-10931, 1998 U.S. App. LEXIS 40270 (5th Cir., July 6, 1998) (stating that “Stewart is **BARRED** from filing any pleadings or documents of any kind, wither in the district courts of this circuit or in this court, without advance written permission of a judge of the forum court. Any attempt by Stewart to file frivolous pleadings in the future will result in further sanctions.”) It is further

ORDERED that any and all motions which may be pending in this action are hereby
DENIED.

SIGNED this 20th day of June, 2016.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE